

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.04.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P. No.20438 of 2015  
and M.P.No.1 of 2015

J.Muthumani

.. Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep. by Secretary to Government,  
Housing and Urban Development  
[HB 5(i)] Department,  
Fort St.George, Secretariat,  
Chennai - 600 009.

2.The Managing Director,  
Tamil Nadu Housing Board,  
No.493, Anna Salai,  
Nandanam, Chennai - 600 035.

3.The Executive Engineer and  
Administrative Officer,  
Tamil Nadu Housing Board  
Hosur Housing Unit,  
Bagalur Road, Hosur - 635 109.

.. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Letter No.Allotment 3.3/11538/2009 dated 21.05.2015 of the second respondent and quash the same and consequently direct the respondents herein to re-fix the cost of LIG Plot No.218, in Krishnagiri Housing Unit Phase-I of Hosur Housing Scheme as per the rates prevalent in the year 2009 and refund the excess amount which has been collected from the petitioner.

For Petitioner

: M/s.AL.Ganthimathi

For Respondent No.1

: M/s.K.Bhuvaneswari

Additional Government Pleader

For Respondent Nos.2 and 3

: Mr.V.Anandamoorthy

Standing Counsel

## O R D E R

The present Writ Petition has been filed questioning the impugned order dated 21.05.2015 fixing the cost of the land allotted to the petitioner as on the subsequent regular allotment order dated 25.03.2013.

2. The petitioner was issued with the order of allotment on 25.09.2009 bearing LIG Plot No.218 in Krishnagiri Housing Unit Phase-I under G.O.Ms.2D No.450, Housing and Urban Development [Ve.Va5(1)] Department dated 25.09.2009, asking her to produce all the necessary certificates for verification. Again, on 02.08.2010, the third respondent sent a letter to the petitioner to produce all the necessary certificates for verification. Only thereafter, the regular allotment order was issued to the petitioner allotting the aforementioned Plot on 25.03.2013 fixing the total price of Rs.12,00,000/- and asking the petitioner to make initial deposit of Rs.3,60,000/-. On receipt of the same, the petitioner sent a representation dated 02.04.2013 requested to re-fix the cost of LIG Plot No.218 as per the prevailing market rate that existed the date of issuance of allotment order dated 25.09.2009. Without prejudice to the rights of the petitioner, a sum of Rs.3,60,000/- was paid on 17.04.2013. Thereafter, the petitioner was also handed over the possession of the said Plot.

3. The petitioner has been paying the installment amount as fixed by the respondent Board without prejudice to her rights for re-fixing the cost of the plot. However, the request of the petitioner for re-fixing the cost of the Plot was not considered. Hence, she came to this Court in W.P.No.23565 of 2013 praying for a direction to the respondents therein to consider her representation dated 02.04.2013 by re-fixing the cost of the Plot as prevailing in the year 2009 when the LIG Plot No.218 was allotted to her by the first respondent and consequently to adjust the amounts paid by the petitioner upon and till the date of re-fixation. When the matter was taken up on 13.02.2015, this Court while disposing of the said writ petition directed the Managing Director of the Tamil Nadu Housing Board, the second respondent to consider the petitioner's representation dated 02.04.2013 and pass speaking order within a period of six weeks from the date of receipt of a copy of the order.

4. Pursuant to the said order, the third respondent sent a note to the first respondent stated that the petitioner has represented for re-fixation of cost of the Plot in question by adopting the rate prevalent during the period when the original

allotment order was issued in the year 2009. However, the second respondent, by order dated 21.05.2015 passed an order stating that the Plot in question allotted to the petitioner by G.O.Ms.2D No.450 dated 25.09.2009 but the petitioner submitted her documents only on 24.08.2010 and thereafter, the regular allotment order was not issued to her. Therefore, the amount of Rs.12,00,000/- fixed on the date of issuance of the order dated 25.03.2013 could be in order.

5. The learned counsel appearing for the petitioner submitted that when the petitioner is a social worker and has made an application for allotment of Plot, the Government accepting her status of social worker thought fit to issue an allotment order under the category of social worker. Accordingly, her allotment order was issued on 25.09.2009. Therefore, on the date of the original order of allotment, the cost of the land then prevailing alone should be taken into account for fixing the total cost of the plot in question. Living that course, the respondents have wrongly chosen the subsequent re-allotment order dated 25.03.2013. In the meanwhile, the land cost has shot up manifold. But the petitioner has been put into great problem if she is directed to pay subsequent market value. Opposing the above prayer, a detailed counter affidavit has been filed.

6. Mr.V.Anandamoorthy, learned Standing Counsel appearing for the respondents 2 and 3 submitted that there are two orders of allotment, namely, the first allotment is dated 25.09.2009 and the second re-allotment is dated 25.03.2013. Since the petitioner has delayed in producing the relevant documents that she is a social worker, the re-allotment order dated 25.03.2013 has been taken as a subsequent regular allotment, therefore, no error can be found in the impugned order.

7. Admittedly, in the present case, the Government have also issued the allotment order exercising the discretionary quota that the cost of the land should be fixed only on the basis of the exceeding rate on the date of issuance of allotment order dated 25.09.2009. Therefore, the respondents are directed to work out the cost of the land taking into account the prevailing market value as on 25.09.2009 and issue the formal order calling upon the petitioner to pay the entire amount taking to re-fix the total cost of the land.

8. Since the petitioner has been paying the cost of the amount from 17.04.2013, the respondents are directed to find out whether the petitioner has to pay anything more and if the petitioner paid the real market value as on 25.09.2009 and if any excess is made, the same may be refunded to the petitioner within a period of six weeks from the date of receipt of a copy

of this order.

9. With these directions, the Writ Petition stands disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd

ASSISTANT REGISTRAR ( CS III )

TRUE COPY

SUB ASSISTANT REGISTRAR

To

1.The Secretary,  
Government of Tamil Nadu,  
Housing and Urban Development  
[HB 5(i)] Department,  
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Chennai - 600 009.

2.The Managing Director,  
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3.The Executive Engineer and  
Administrative Officer,  
Tamil Nadu Housing Board  
Hosur Housing Unit,  
Bagalur Road, Hosur - 635 109.

1CC TO THE GOVERNMENT PLEADER SR.NO. 24621

1CC TO M/S. AL.GANTHIMATHI, ADVOCATE SR.NO. 24511

1CC TO MR. V. ANANDHAMURTHY, ADVOCATE SR.NO. 24238

सत्यमेव जयते

W.P. No.20438 of 2015

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